

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

VINCENT X. LEE, Register No. 37915,)
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Plaintiff,)
)
)
v.) No. 05-4388-CV-C-SOW
)
)
DAVE DORMIRE, et al.,)
)
)
Defendants.)

ORDER

On December 22, 2005, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on January 4, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Plaintiff's exceptions do not make any claim of immediate danger of serious physical harm which would bring him within the exception to a three-strikes dismissal under 28 U.S.C. § 1915(g).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's December 22, 2005, Report and Recommendation is adopted [6]. It is further

ORDERED that plaintiff is denied leave to proceed in forma pauperis and his claims claims are dismissed, pursuant to the provisions of 28 U.S.C. § 1915(g), because plaintiff has had three or more cases or appeals dismissed as frivolous or for failure to state a claim.

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: March 15, 2006